

ably determinable from available information including the agency's sampling of the bank's loan files during an examination or such data as is otherwise available) is less than half the average of total loans in the host State relative to total deposits from the host State (as determinable from relevant sources) for all banks the home State of which is such State—

(A) the appropriate Federal banking agency for the out-of-State bank shall review the loan portfolio of the bank and determine whether the bank is reasonably helping to meet the credit needs of the communities served by the bank in the host State; and

(B) if the agency determines that the out-of-State bank is not reasonably helping to meet those needs—

(i) the agency may order that an interstate branch or branches of such bank in the host State be closed unless the bank provides reasonable assurances to the satisfaction of the appropriate Federal banking agency that the bank has an acceptable plan that will reasonably help to meet the credit needs of the communities served by the bank in the host State, and

(ii) the out-of-State bank may not open a new interstate branch in the host State unless the bank provides reasonable assurances to the satisfaction of the appropriate Federal banking agency that the bank will reasonably help to meet the credit needs of the community that the new branch will serve.

(2) Considerations

In making a determination under paragraph (1)(A), the appropriate Federal banking agency shall consider—

(A) whether the interstate branch or branches of the out-of-State bank were formerly part of a failed or failing depository institution;

(B) whether the interstate branch was acquired under circumstances where there was a low loan-to-deposit ratio because of the nature of the acquired institution's business or loan portfolio;

(C) whether the interstate branch or branches of the out-of-State bank have a higher concentration of commercial or credit card lending, trust services, or other specialized activities;

(D) the ratings received by the out-of-State bank under the Community Reinvestment Act of 1977 [12 U.S.C. 2901 et seq.];

(E) economic conditions, including the level of loan demand, within the communities served by the interstate branch or branches of the out-of-State bank; and

(F) the safe and sound operation and condition of the out-of-State bank.

(3) Branch closing procedure

(A) Notice required

Before exercising any authority under paragraph (1)(B)(i), the appropriate Federal banking agency shall issue to the bank a notice of the agency's intention to close an interstate branch or branches and shall schedule a hearing.

(B) Hearing

Section 1818(h) of this title shall apply to any proceeding brought under this paragraph.

(d) Application

This section shall apply with respect to any interstate branch established or acquired in a host State pursuant to this title² or any amendment made by this title² to any other provision of law.

(e) Definitions

For the purposes of this section, the following definitions shall apply:

(1) Appropriate Federal banking agency, bank, State, and State bank

The terms "appropriate Federal banking agency", "bank", "State", and "State bank" have the same meanings as in section 1813 of this title.

(2) Home State

The term "home State" means—

(A) in the case of a national bank, the State in which the main office of the bank is located; and

(B) in the case of a State bank, the State by which the bank is chartered.

(3) Host State

The term "host State" means a State in which a bank establishes a branch other than the home State of the bank.

(4) Interstate branch

The term "interstate branch" means a branch established pursuant to this title² or any amendment made by this title² to any other provision of law and any branch of a bank controlled by an out-of-State bank holding company (as defined in section 1841(o)(7) of this title).

(5) Out-of-State bank

The term "out-of-State bank" means, with respect to any State, a bank the home State of which is another State and, for purposes of this section, includes a foreign bank, the home State of which is another State.

(Pub. L. 103-328, title I, § 109, Sept. 29, 1994, 108 Stat. 2362; Pub. L. 106-102, title I, § 106, Nov. 12, 1999, 113 Stat. 1359.)

REFERENCES IN TEXT

This title, referred to in subsecs. (a), (d), and (e)(4), is title I of Pub. L. 103-328, Sept. 29, 1994, 108 Stat. 2339, which enacted this section and sections 43, 215a-1, and 1831u of this title, amended sections 30, 36, 215, 215a, 215b, 1462a, 1820, 1828, 1831a, 1831r-1, 1841, 1842, 1846, 2906, 3103 to 3105, and 3106a of this title and section 1927 of Title 7, Agriculture, enacted provisions set out as notes under sections 215, 1811, 1828, 3104, 3105, and 3107 of this title and section 1927 of Title 7, and amended provisions set out as a note under section 1811 of this title. For complete classification of this title to the Code, see Tables.

The Community Reinvestment Act of 1977, referred to in subsec. (c)(2)(D), is title VIII of Pub. L. 95-128, Oct. 12, 1977, 91 Stat. 1147, as amended, which is classified generally to chapter 30 (§2901 et seq.) of this title. For

² See References in Text note below.

complete classification of this Act to the Code, see Short Title note set out under section 2901 of this title and Tables.

CODIFICATION

Section was enacted as part of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, and not as part of the Federal Deposit Insurance Act which comprises this chapter.

AMENDMENTS

1999—Subsec. (e)(4). Pub. L. 106-102 inserted before period at end “and any branch of a bank controlled by an out-of-State bank holding company (as defined in section 1841(o)(7) of this title)”.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-102 effective 120 days after Nov. 12, 1999, see section 161 of Pub. L. 106-102, set out as a note under section 24 of this title.

CHAPTER 17—BANK HOLDING COMPANIES

Sec.

1841. Definitions.

1842. Acquisition of bank shares or assets.

- (a) Prior approval of Board as necessary; exceptions; disposition, time extension; subsequent approval or disposition upon disapproval.
- (b) Application for approval; notice to Comptroller of Currency or State authority; views and recommendations; disapproval; hearing; order of Board; nonaction deemed grant of application; procedure in emergencies or probable failures requiring immediate Board action and orders.
- (c) Factors for consideration by Board.
- (d) Interstate banking.
- (e) Insured depository institution.
- (f) Repealed.
- (g) Mutual bank holding company.

1843. Interests in nonbanking organizations.

- (a) Ownership or control of voting shares of any company not a bank; engagement in activities other than banking.
- (b) Statement purporting to represent shares of any company except a bank or bank holding company.
- (c) Exemptions.
- (d) Exemption of company controlling one bank prior to July 1, 1968.
- (e) Divestiture of nonexempt shares.
- (f) Certain companies not treated as bank holding companies.
- (g) Limitations on certain banks.
- (h) Tying provisions.
- (i) Acquisition of savings associations.
- (j) Notice procedures for nonbanking activities.
- (k) Engaging in activities that are financial in nature.
- (l) Conditions for engaging in expanded financial activities.
- (m) Provisions applicable to financial holding companies that fail to meet certain requirements.
- (n) Authority to retain limited non-financial activities and affiliations.
- (o) Regulation of certain financial holding companies.

1844. Administration.

- (a) Registration of bank holding company.
- (b) Regulations and orders.
- (c) Reports and examinations.

Sec.

- (d) Reports to the Congress; recommendations.
- (e) Termination of activities or ownership or control of nonbank subsidiaries constituting serious risk.
- (f) Powers of Board respecting applications, examinations, or other proceedings.
- (g) Authority of State insurance regulator and the Securities and Exchange Commission.

1845. Repealed.

1846. Reservation of rights to States.

- (a) In general.
- (b) State taxation authority not affected.

1847. Penalties.

- (a) Criminal penalty.
- (b) Civil money penalty.
- (c) Notice under this section after separation from service.
- (d) Penalty for failure to make reports.

1848. Judicial review.

1848a. Limitation on rulemaking, prudential, supervisory, and enforcement authority of the Board.

- (a) Limitation on direct action.
- (b) Limitation on indirect action.
- (c) Actions specifically authorized.
- (d) Functionally regulated subsidiary defined.

1849. Saving provision.

- (a) General rule.
- (b) Antitrust review.
- (c) Antitrust proceedings; Board and State banking agency as party; representation by counsel.
- (d) Treatment of merger transactions consummated prior or subsequent to May 9, 1956, and not in litigation prior to July 1, 1966.
- (e) Antitrust litigation; substantive law applicable to proceedings pending on or after July 1, 1966, with respect to merger transactions.
- (f) “Antitrust laws” defined.

1850. Acquisition of subsidiary and tying arrangement: Federal Reserve Board proceedings; application for authorization; competitor as party in interest and person aggrieved; judicial review.

§ 1841. Definitions

(a)(1) Except as provided in paragraph (5) of this subsection, “bank holding company” means any company which has control over any bank or over any company that is or becomes a bank holding company by virtue of this chapter.

(2) Any company has control over a bank or over any company if—

(A) the company directly or indirectly or acting through one or more other persons owns, controls, or has power to vote 25 per centum or more of any class of voting securities of the bank or company;

(B) the company controls in any manner the election of a majority of the directors or trustees of the bank or company; or

(C) the Board determines, after notice and opportunity for hearing, that the company directly or indirectly exercises a controlling influence over the management or policies of the bank or company.

(3) For the purposes of any proceeding under paragraph (2)(C) of this subsection, there is a presumption that any company which directly